

REMARKS

Claims 10-22 and 33-51 are pending. Claims 33-51 are rejected under 35 U.S.C. §102(e). Claims 10-15 are rejected under 35 U.S.C. §103(a). Claims 16-22 are allowed. Claims 1-9 and 23-32 are cancelled without prejudice.

Claims 33-39 are rejected under 35 U.S.C. §102(e) as being anticipated by Mantha et al. (U.S. Pat. No. 7,000,174). Independent claim 33 recites "A method of communicating data from a transmitting end to a receiving end, comprising: **establishing communication in a first mode with the receiving end; switching to a second mode of communication with the receiving end after communication is established**; the transmitting end applying to a plurality of original data bits that are to be transmitted to the receiving end an encoding algorithm that produces Cyclical Redundancy Check (CRC) bits and parity bits; the transmitting end transmitting the original data bits and the CRC bits without the parity bits in a first transmission to the receiving end; and the transmitting end refraining from transmitting the parity bits until the transmitting end receives an indication from the receiving end that the original data bits have not been correctly received at the receiving end." (emphasis added). Examiner attributes the foregoing emphasized limitations to the disclosure of Mantha et al. at col. 2, lines 45-47. This interpretation ignores the emphasized limitations. Judge Rich, writing for the CCPA, held "Claims are not to be read in a vacuum and while it is true they are to be given the broadest reasonable interpretation during prosecution, their terms still have to be given the meaning called for by the specification of which they are a part." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Here, Examiner ignores the plain meaning of independent claim 33. Both the initial transmission (col. 2, lines 44-46) and the subsequent transmission (col. 2, lines 46-47) of Mantha et al. are the same communication mode (col. 2, lines 52-57). Thus, claim 33 and depending claims 34-39 are patentable under 35 U.S.C. §102(e) over Mantha et al.

Claims 40-41 are rejected under 35 U.S.C. §102(e) as being anticipated by Mantha et al. (U.S. Pat. No. 7,000,174). Independent claim 40 recites “A method of communicating data from a transmitting end to a receiving end, comprising: **establishing communication in a first mode with the transmitting end; switching to a second mode of communication with the transmitting end after communication is established**; the receiving end receiving from the transmitting end a first transmission including original data bits and Cyclical Redundancy Check (CRC) bits without parity bits produced at the transmitting end by operation of an encoding algorithm applied to the original data bits; the receiving end determining whether the original data bits have been received correctly in response to the CRC bits and, responsive to a determination that the original data bits have not been received correctly, the receiving end transmitting to the transmitting end a request for transmission of the parity bits.” (emphasis and identification letters added). Examiner attributes the foregoing emphasized limitations (A) to the disclosure of Mantha et al. at col. 2, lines 45-47. This interpretation ignores the emphasized limitations. Judge Rich, writing for the CCPA, held “Claims are not to be read in a vacuum and while it is true they are to be given the broadest reasonable interpretation during prosecution, their terms still have to be given the meaning called for by the specification of which they are a part.” *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Here, Examiner ignores the plain meaning of independent claim 40 as well as the emphasized limitations. Both the initial transmission (col. 2, lines 44-46) and the subsequent transmission (col. 2, lines 46-47) of Mantha et al. are the same communication mode (col. 2, lines 52-57). Thus, claim 40 and depending claim 41 are patentable under 35 U.S.C. §102(e) over Mantha et al.

Claims 42-51 are rejected under 35 U.S.C. §102(e) as being anticipated by Mantha et al. (U.S. Pat. No. 7,000,174). Independent claim 42 recites “A method of transmitting data, comprising: (A) **encoding data by a first method to establish communication with a remote receiver; encoding data by a second method to communicate with the remote receiver after communication is established**; applying an encoding algorithm that produces parity bits to a plurality of original data bits that are to be transmitted; (B) **transmitting the original data bits**

with Cyclical Redundancy Check (CRC) bits to the remote receiver without the parity bits in a first transmission; and refraining from transmitting the parity bits until receiving an indication that the original data bits have not been correctly received.” (emphasis and identification letters added). Independent claim 46 recites “A method of receiving data, comprising: (A) encoding data by a first method to establish communication with a remote transmitter; encoding data by a second method to communicate with the remote transmitter after communication is established; (B) receiving a first transmission from the remote transmitter including original data bits and Cyclical Redundancy Check (CRC) bits without parity bits produced by operation of an encoding algorithm applied to the original data bits; determining that the original data bits have not been received correctly in response to the CRC bits; and transmitting a request for transmission of parity bits to the remote transmitter responsive to the step of determining.” (emphasis and identification letters added).

Examiner attributes the foregoing emphasized limitations (A) to the disclosure of Mantha et al. at col. 2, lines 45-47 as well as the foregoing emphasized limitations (B) to the disclosure of Mantha et al. at col. 2, lines 45-47. (OA 10/3/2011, pages 9-10). This interpretation ignores either the limitations (A) or (B). As previously explained, Examiner ignores the plain meaning of independent claim 42 and 46 as well as limitations (A) or (B). Thus, claims 42, 46, and their respective depending claims are patentable under 35 U.S.C. §102(e) over Mantha et al.

Examiner states he has “reviewed applicant’s remarks in light of the claimed limitations but failed to find any reference to “that they might be combined together as required by claims 42 and 46.” (OA 10/3/2011, page 4). As best applicants understand this statement, Examiner fails to find support for the foregoing emphasized limitations of claims 42 and 46. Referring to Figure 3 and the last paragraph of page 9, the instant specification states “In one example of operation in mode 1 and mode 2, a Bluetooth master and slave first synchronize to each other and communicate using mode 1 and then enter mode 2 upon negotiation.” As shown in Figure 3, modulation may be GFSK in mode 1 and 16 or 64 QAM in mode 2. Thus, applicants aver there is support for the foregoing emphasized limitations of independent claims 42 and 46.

TI-31284, Page 12

Examiner misquotes limitations of claims 42 and 46 in the interpretation of Mantha et al. Examiner states “Mantha discloses in a prior art system referred to as a Type-II HARQ scheme wherein encoding that consists of information bits (original bits, col. 1, lines 63-65) and CRC bits data to establish communication as a **first method to establish communication** with a remote receiver (that is to establish communication with a remote receiver) (col. 2, lines 44-46); encoding data by a second (**the second method entails inclusion of parity bits that is transmitted after the communication with a remote receiver occurs**) (method to communicate with the remote receiver after communication is established) (col. 2, lines 46-47).” (emphasis added). This is incorrect for several reasons. First the foregoing emphasized words of Examiner are not from claims 42 or 46. Second, claims 42 and 46 specifically state “encoding data by a first method” and “encoding data by a second method.” Third, the word “encoding” does not appear in column 2, lines 44-47 of Mantha et al. as inferred by Examiner. Finally, there is no teaching or suggestion that the second method Examiner refers to at column 2, lines 46-47 of Mantha et al. is a different “encoding method” from the first method Examiner refers to at column 2, lines 44-46. Mantha et al. state “Subsequent retransmission requests entail incremental transmission of parity bits.” (col. 2, lines 46-47). Mantha et al. do not suggest that this subsequent retransmission is encoded differently from a first transmission. Mantha et al. simply fail to disclose at least the foregoing emphasized limitations of claims 42 and 46. Thus, independent claims 42 and 46 and their respective depending claims are patentable under 35 U.S.C. §102(e) over Mantha et al.


Claims 10-15 are rejected under 35 U.S.C. §103(a). Independent claim 10 recites “A data communication apparatus, comprising: **a controller arranged to establish communication in a first mode with another data communication apparatus, the controller arranged to switch to communication in a second mode with said another data communication apparatus after communication is established**; an input for receiving original data bits that are to be transmitted via a communication channel to said another data communication apparatus; an encoder coupled to said input for applying to the original data bits an encoding algorithm that produces parity bits; an output for providing bits that are to be transmitted across the communication channel; and a data path coupled between said encoder and said output, said data path receiving information

from said another data communication apparatus, said data path selecting one of the original data bits with Cyclical Redundancy Check (CRC) bits and the parity bits in response to a first information, said data path selecting the other of the original data bits with CRC bits and the parity bits in response to a second information, to be provided to said output for transmission across the communication channel to said another data communication apparatus.” (emphasis added).

Examiner admits that “Mantha does not expressly disclose a controller to switch communication from a first mode of communication to a second mode after communication is established. Awater, however, discloses establishing communication in a first mode with another data communication apparatus (transmitting end) and switching to a second mode with the other end after communication is established (with another data communication apparatus) (col. 6, lines 34-67; col. 7, lines 1-5).” (OA 10/3/2011, page 13). Examiner will please note that the foregoing emphasized limitations of claim 10 require communication with the same “data communication apparatus” in both first and second modes. Awater et al. at Figure 1 disclose a dual mode transceiver 100 that operates in one of two modes. In a first mode, the transceiver communicates with an IEEE 802.11 compatible device. In a second mode, the transceiver communicates with a Bluetooth device. (col. 2, lines 34-40). However, Awater et al. never teach or suggest that both first and second modes might be used to communicate with the same “data communication apparatus” as required by claim 10. Without regard to whether the disclosures of Mantha et al. and Awater et al. are properly combinable, neither reference, taken alone or in combination discloses the foregoing emphasized claim limitations. Thus, claim 10 and depending claims 11-15 are patentable under 35 U.S.C. §103(a) over the cited references.

In view of the foregoing, applicants respectfully request reconsideration and allowance of claims 10-22 and 33-51. If Examiner finds any issue that is unresolved, please call Applicants' attorney by dialing the telephone number printed below.

Respectfully submitted,



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